

Criminal Practice Amendment Rule 2023

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence provide this human rights certificate with respect to the *Criminal Practice Amendment Rule 2023* (the Amendment Rule) made under the *Supreme Court of Queensland Act 1991* (the SCQ Act).

In my opinion, the Amendment Rule, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The rules of practice and procedure relating to the court's criminal jurisdiction are contained in the *Criminal Practice Rules 1999* (the CP Rules). Chapter 2 of the CP Rules prescribes the general format for an indictment, information (the form of a private prosecution) or a complaint.

Rule 14(4) of the CP Rules provides that an indictment or information must contain a statement of the offence under rule 15. Pursuant to rule 15, the statement of an offence in an indictment, complaint or other document may be in words of:

- (a) the schedule form for the offence, with the changes necessary to make the words consistent with the particular circumstances of the alleged offence; or
- (b) if there is no schedule form for the offence, the Code or other Act creating the offence.

The schedule forms for indictments, informations and complaints in Schedule 3 of the CP Rules contain the wording for statement of offences from the Code.

To support implementation of amendments to the Criminal Code arising from the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023* (the Act), the Amendment Rule amends the forms in Schedule 3 of the CP Rules to reflect the amended offences in the Code. These amendments include:

- replacing the term 'carnal knowledge' with 'penile intercourse' in all offences in which that term appears;
- replacing the title for the offence of 'maintaining a sexual relationship with a child' to 'repeated sexual conduct with a child'; and
- renaming the offence of unlawful stalking as it appears throughout Chapter 33A of the Code to 'unlawful stalking, intimidation, harassment or abuse'.

Additionally, the Amendment Rule inserts a new Form 205A (Contravention of a restraining order within 5 years after conviction for domestic violence offence) to reflect the Act's amendment to section 359F of the Code.

Human Rights Issues

The Amendment Rule will ensure that the prescribed wording for an indictment, information or complaint in the Schedule 3 forms of the CP Rules accurately reflect the amended offences in the Code to which they relate. On this basis, it is my opinion that this subordinate legislation does not raise human rights issues because it does not engage or limit any human rights protected under the HR Act.

Conclusion

I consider that the *Criminal Practice Amendment Rule 2023* is compatible with the HR Act because it does not raise a human rights issue.

YVETTE D'ATH MP
Attorney-General and Minister for Justice and
Minister for the Prevention of Domestic and Family Violence
Leader of the House

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